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1 witness may alone be of sufficient weight to sustain a verdict  
2 of guilty. You should keep in mind, however, that such  
3 testimony is always to be received with caution and weighed  
4 with great care. You should never convict a defendant upon the  
5 unsupported testimony of an alleged accomplice unless you  
6 believe that testimony beyond a reasonable doubt. The fact  
7 that an accomplice has entered a plea of guilty to the offense  
8 charged is not evidence of the guilt of any other person.

In establishing that a substance is a controlled substance, such as cocaine, the government need not rely only on expert chemical analysis. A lay person may testify that the substance involved was a specific type of drug.

A number of factors can permit you to determine that  
a substance is a controlled substance, such as cocaine.  
Namely, a high price paid for a small amount of substance; the  
fact that the substance was a powder, the manner in which the  
substance was packaged or contained; the fact that the witness  
previously was involved in narcotic transactions; the fact that  
the witness previously used the alleged substance and was  
familiar with its effects; the witness's familiarity with the  
specific language utilized by drug users and dealers; and the  
fact that, when a witness distributed the substance to his  
customers, none of them complained that it was not the  
controlled substance represented.

As I mentioned at the beginning of the case, I'm

1 to the amendment reducing the highest level under the  
2 guidelines from 42 to 38. And if you look at the amendment,  
3 your Honor, the amendment was made significantly finding that a  
4 level 38 is more than enough and you need "an extraordinary  
5 case" in order to make a finding. And if you also look at  
6 level 38, it says 1.5 kilos or more. Now, I understand that  
7 the application note provides for or more, but only under  
8 extraordinary cases and in the cases they have found that to be  
9 appropriate, once again, there was a seizure and there was  
10 something from which the amounts could be calculated, other  
11 than testimony from witnesses only, no corroboration.

12 THE COURT: All right, thank you. I'm going to take  
13 a five-minute recess and look over my notes, based upon the  
14 testimony and the arguments. Then I'm going to come back and  
15 rule on all of these issues, then we'll proceed to sentencing,  
16 all right.

17 (Recess from 10:36 a.m.; until 10:42 a.m.)

18 THE COURT: This is an order.

19 ORDER

20 Presently pending before the court are several  
21 objections filed on behalf of the defendant to the presentence  
22 report. I will take them up now seriatim. The defendant  
23 objects to the facts set forth in paragraphs 12 through 14;  
24 paragraph 30; and paragraphs 31 through 32 of the presentence  
25 report. The specifics of which I incorporate herein by

1 reference in the interest of time. It is, of course,  
2 well-settled that factual matters may be considered at  
3 sentencing "if they have some minimal indicium of reliability  
4 based upon mere allegation." United States v. Baylin, 696 F.2d  
5 1030, 1040 (3rd Cir. 1982). I also note that United States  
6 Sentencing Guideline 6A1.3 provides that a sentencing court  
7 "may consider relevant information without regard to its  
8 admissibility under the rules of evidence applicable at trial,  
9 provided that the information has sufficient indicia of  
10 reliability to support its probable accuracy." After listening  
11 to the testimony of Trooper Weindorf, insofar as the  
12 allegations in paragraphs 12 through 14 are concerned, and also  
13 after having heard the representations of the government as to  
14 the manner or method in which the information contained in  
15 paragraphs 30, 31 and 32 were secured, the court is of the  
16 opinion that the factual recitation in those paragraphs does  
17 bear the minimum indicia of reliability and, consequently, the  
18 objections to those paragraphs are overruled.

19 Secondly, the defendant has objected to the  
20 conclusion in paragraph 37 of the report that the evidence }  
21 supports a finding that the defendant's criminal activity }  
22 involved an amount of crack cocaine of over 1.5 kilograms and, }  
23 consequently, a base offense level of 38 was appropriate }  
24 pursuant to United States Sentencing Guideline 2D1.1(c) (1). }  
25 The defendant argues, in essence, that the amount of drugs }

1 attributed in the presentence report is essentially  
2 speculative. Specifically, at page two of his position with  
3 respect to sentencing factors, he details drugs seized from  
4 various of Cooley's accomplices, noting that the total seizures  
5 represented therein was approximately 187.40 grams, far less,  
6 he alleges, than the 1.5 kilograms attributed to the defendant  
7 by the probation officer.

8 The following legal principles guide my analysis as  
9 to the appropriate resolution of this issue. First. That the  
10 evidence upon which an approximation is based need not be  
11 admissible at trial but must once again possess "sufficient  
12 indicia of reliability to support it probable accuracy."

13 That's United States v. Gibbs, 190 F.3d 188 (3rd Cir. 2003).  
14 Second. In determining drug quantity, the court is permitted  
15 to consider relevant conduct, including the conduct of  
16 co-conspirators in furtherance of, and reasonably foreseeable  
17 in connection with, the criminal activity jointly undertaken by  
18 the defendant. Gibbs, 190 F.3d at 214. Third. The court may  
19 estimate drug quantity that is involved in a conspiracy based  
20 on the evidence concerning average drug transactions during  
21 that conspiracy. Gibbs, at 219. And, finally, the principle  
22 is well-established that a leader of a drug conspiracy is  
23 responsible for drug quantities that are distributed during the  
24 life and course of that conspiracy by his subordinates in  
25 furtherance thereof. That's Gibbs, also, at 219.

1           In this case I note that the following testimony and  
2 evidence was elicited. Which having, of course, presided over  
3 the trial, I found credible. Richard Figueroa testified that  
4 during an approximate one-year period between 1993 and 1994 his  
5 partner provided the defendant with nine to eighteen ounces of  
6 crack on a regular weekly basis.

7           Second. James Crockett testified that from  
8 approximately November, 2000 through January, 2001, the  
9 defendant provided him over five kilograms of crack cocaine,  
10 for which Cooley was paid approximately \$1,000 for each ounce  
11 of the crack cocaine.

12           Third. James Johnson testified that from 1992 to  
13 1994, Cooley provided him with multiple ounce quantities of  
14 crack cocaine. And, further, that Johnson observed Cooley  
15 providing multiple ounces of crack cocaine to Curas Newsome  
16 between '92 and '94.

17           And that in 2000, the year 2000, approximately nine  
18 kilograms of crack cocaine were provided to Johnson by Cooley.

19           Fifth. There was testimony that Cooley supplied  
20 Curas Newsome with crack cocaine from 1992 to 1998. He  
21 traveled to Meadville from Erie and supplied her with multiple  
22 quantities of crack cocaine on a regular basis. In  
23 approximately 1994 Newsome moved to Erie, at which time the  
24 defendant began to provide her with one-half kilogram  
25 quantities of the drug at least every month for the purpose of

1 transporting those drugs back to Meadville. This arrangement  
2 was a multiple year arrangement.

3 Sixth. There was also testimony concerning Cooley  
4 providing Andre Henderson with crack cocaine between 1998 and  
5 1999. The initial supplying represented approximately three  
6 ounces of crack every two weeks for a couple of months.  
7 Thereafter, for the next five months, approximately, five to  
8 seven ounces of crack every two weeks. During the last five  
9 months, the testimony indicated approximately 15 ounces of  
10 crack every three weeks.

11 Seventh. Eric Tate, the testimony suggests,  
12 approached the defendant concerning cocaine, crack cocaine in  
13 1999. At which time the defendant directed Tate to James  
14 Johnson. And thereafter Tate was supplied with multiple ounces  
15 of crack on a number of occasions up through 2000.

16 The testimony further suggested that Raymond Simmons  
17 observed the defendant pick up kilogram sized packages of crack  
18 from a supplier to Simmons, Jose Velasquez. Velasquez  
19 testified that he supplied one and one-half pound quantities of  
20 crack cocaine to Cooley on at least three occasions.

21 Joseph Wayne testified that the defendant provided  
22 him with over three kilograms of crack cocaine during the late  
23 summer of 2000.

24 Larry Henry testified that from January, 2001  
25 through approximately July, 2001, he received at least eight

1 kilograms of crack cocaine from the defendant.

2 Jamaal Smith testified that he received  
3 approximately 25 to 50 rocks of crack from the defendant every  
4 two weeks from approximately 1991 and continuing through 1993.

5 Shannon Mathis testified that Cooley supplied him  
6 with three to seven ounces of crack every week from  
7 approximately 1991 to 1993.

8 Here, in my view, the testimony as to the drug }  
9 quantities possessed does have a significant indicia of }  
10 reliability. In my view, the testimony fairly reflects a }  
11 defendant who sat as the organizer of a massive and prolonged }  
12 drug distribution scheme. I also note that the testimony of }  
13 Cooley's drug conspirators was consistent and mutually }  
14 reinforcing. See United States v. Ventura, 353 F.3d 84 (1st }  
15 Cir. 2003), at page 88. }  
16 Having carefully considered the testimony relative }  
17 to the amount of drugs moving in this conspiracy, I find that }  
18 at a minimum drug quantity in the amount of 35 kilograms to 40 }  
19 kilograms has been established. The defendant's objection, }  
20 therefore, with respect to paragraph 38 of the presentence }  
21 report is denied. }

22 The defendant also objects to an enhancement  
23 pursuant to 2D1.1 of the Sentencing Guidelines. 2D1.1 provides  
24 in pertinent part "if a dangerous weapon, including a firearm,  
25 was possessed, increase by two levels." I note in resolving }

1 this issue that it is not necessary that a gun be recovered in  
2 order to support the enhancement. United States v. Givan, 320  
3 F.3d 452, 464, (3rd Cir. 2003). "Testimony that the defendant  
4 was observed possessing a firearm is sufficient assuming its  
5 reliability." Givan, at 452. In this regard I note and find  
6 credible the testimony of Lamont Johnson, that Cooley  
7 frequently carried a 9 millimeter firearm throughout the  
8 conspiracy. I also credit the testimony to the effect that  
9 Cooley or the evidence to the effect that Cooley threatened to  
10 kill Ken Henderson with a firearm by placing a loaded firearm  
11 in his mouth. I also credit the information relative to Albert  
12 Boyd selling three semiautomatic pistols to the defendant in  
13 1997. I find, therefore, that the two-point increase is  
14 appropriate, and the defendant's objection is overruled.

15 The defendant has objected to a four-level  
16 enhancement pursuant to United States Sentencing Guideline  
17 3B1.1(a), for his role as an organizer/leader of the criminal  
18 activity. The commentary to this sentencing guideline lists  
19 the following factors that the court should consider in  
20 distinguishing a leadership and organizational role from one  
21 that might represent mere management or supervision:

- 22 (1) the nature of participation in the commission  
23 of the offense;
- 24 (2) the recruitment of accomplices;
- 25 (3) the claimed right to a larger share of the

1       fruits of the crime;

2                     (4) the degree of participation and planning or  
3 organizing the offense;

4                     (5) the nature and scope of the illegal activity;  
5 and

6                     (6) the degree of control and authority exercised  
7 over others.

8                     In this case I find that there is overwhelming  
9                     evidence that the defendant represented an organizer or leader  
10                   of the criminal activity as that term is understood under the  
11                   guidelines. I note, for instance, that he recruited several  
12 individuals to sell high quality crack cocaine for him,  
13 including Shannon Mathis, James Johnson, James Crockett, Joseph  
14 Wayne. There was also credible testimony to the extent that he  
15 claimed a larger share of the financial fruits of these crimes.  
16 He also gave instructions as to how the conspiracy was to be  
17 carried out in various ways. For instance, he instructed  
18 Johnson when and where and from whom to collect various debts.  
19 He ordered that members of the conspiracy communicate via  
20 Nextel phones, which he purchased. He instructed members, such  
21 as Curas Newsome, how to cook powder cocaine for the purpose of  
22 eventually ending up with crack cocaine. I find the four-level  
23 enhancement is appropriate and the defendant's objection is  
24 overruled.

25                     The defendant objects to an obstruction of justice

1 enhancement pursuant to 3C1.1, which provides in pertinent  
2 part:

3 "If (A) the defendant willfully obstructed or  
4 impeded, or attempted to obstruct or impede the administration  
5 of justice during the course of the investigation, prosecution  
6 or sentencing of the instant offense of conviction ... increase  
7 the offense level by two levels." Here, I find the following  
8 evidence credible which fully supports the obstruction  
9 enhancement.

10 One. Testimony to the effect that Cooley drove u  
11 Joseph Wayne passed the house where Wayne's children lived c  
12 stating "if you cross me, I know where your kids stay." t  
13 Two. Testimony to the effect that Cooley told Potha  
14 Boyd, that when Cooley went to prison, he was going to throw  
15 Larry Henry off the top tier of the cellblock as a result of  
16 Mr. Henry speaking with agents of the Federal Bureau of  
17 Investigation.

18 Three. Testimony to the effect that Cooley  
19 approached Frank Crockett, the brother of James Crockett, and  
20 informed Mr. Crockett to pass along a message to James Crockett  
21 about his wife, Joyce Belle, to this effect. "Tell Jimmy to  
22 tell that bitch she better quit fucking with me or she's gonna  
23 end up in the trunk of a car." With respect to the threat  
24 directed to Joyce Belle, there is no requirement that the  
25 threat be made directly, as long as the threat is issued under

1       circumstances under which there is some likelihood of the  
2       victim learning of that threat. United States v. Brooks,  
3       957 F.2d 1138 (4th Cir. 1992). The defendant's objection with  
4       respect to the obstruction of justice enhancement is denied.

5              Finally, the defendant objects to the probation  
6       officer having attributed a criminal history category of II,  
7       claiming that it overstates the seriousness of Mr. Cooley's  
8       prior criminal conduct. In that regard, Section 4A1.3 provides  
9       in relevant part:

10             "There may be cases where the court concluded that a  
11       defendant's criminal history category significantly  
12       over-represents the seriousness of a defendant's criminal  
13       history or the likelihood that the defendant will commit  
14       further crimes. An example might include the case of a  
15       defendant with two minor misdemeanor convictions close to ten  
16       years prior to the instant offense and no other evidence of  
17       prior criminal behavior in the intervening period. The court  
18       may conclude that the defendant's criminal history was  
19       significantly less serious than that of most defendants in the  
20       same criminal history category (Category II), and therefore  
21       consider a downward departure from those guidelines."

22             In resolving this issue, I am, of course, bound by  
23       the court's statement in United States v. Shoupe, 988 F.2d 440  
24       (3rd Cir. 1993). Wherein, the Third Circuit stated the  
25       following with regard to the frequency with which departures of

1 this nature should be granted:

2                 " In so holding, we emphasize that a downward  
3 departure under Section 4A1.3 is only justified in cases where  
4 a defendant's criminal history category 'significantly  
5 over-represents' the seriousness of defendant's past conduct  
6 and future threat to society." In this case I find,  
7 particularly consistent with the standard in Shoupe, that the  
8 criminal history category of II is not significantly  
9 over-representative. The previous conviction was a burglary  
10 conviction, which was a felony. And, in my view, a criminal  
11 history category of II is appropriate.

12                 Finally, given the court's resolution of the various  
13 issues raised in the defendant's position with respect to  
14 sentencing factors, it is unnecessary to reach the government's  
15 motion for an upward departure, that motion now being denied as  
16 moot.

17                 That having been said, I now make the following  
18 findings: The total offense level applicable to this case is a  
19 46. With a criminal history category of II. The statutory  
20 provision with respect to custody is not less than 10 years to  
21 life. The guideline provision is life. The statutory  
22 provision as to probation ineligible. The guideline provision  
23 ineligible. The statutory provision as to supervised release  
24 not less than five years. The guideline provisions five years.  
25 Statutory provision as to a fine not more than \$4 million.

1 Guideline provisions \$25,000 to \$4 million. The statutory  
2 provision as to restitution inapplicable. The guideline  
3 provision inapplicable. A special assessment of \$100 applies  
4 both with respect to the statutory, as well as the guideline  
5 provisions.

6 Now, Ms. Frick, prior to imposing sentencing in this  
7 case is there anything that you would like to say or is there  
8 anything that your client would like to say on his own behalf?

9 MS. FRICK: Your Honor, just a couple of things.  
10 I have three documents here. One is a copy of the defendant's  
11 honorable discharge from the military. I'd like to make these  
12 part of the record. Another is a court order dated December  
13 19, 2000, granting custody to the defendant of a minor child  
14 after he has been approved by Erie County Children and Youth.  
15 And as well as a Pennsylvania child abuse history clearance  
16 pursuant to Act 33, which is done when a person is to have  
17 children in custody or the type of job where he will have  
18 children in custody. I'd like to make these part of the  
19 record, your Honor.

20 THE COURT: Those are part of the record.

21 MS. FRICK: Your Honor, my client does not wish to  
22 make a statement. He wanted me to make those documents  
23 available for him. The only thing that I have to say is that  
24 based on the court's findings what the sentence will be, but I  
25 also want to make part of the record that the presentence

1 report basically tells a different story, as far as his  
2 personal background, from the findings that the court has made,  
3 as I'm sure you're very aware. He comes from an extended and  
4 loving family, as I'm sure the court notices, have been here  
5 everyday during the trial and have basically packed the  
6 courtroom on his behalf today. He has children that he  
7 supports. He was employed, he was in the military. All these  
8 give a totally different picture of the defendant than what was  
9 painted by the individuals who testified here. I just want to  
10 make all that part of the record. That his family again is  
11 here on his behalf, always have been. As I'm sure you'll  
12 recall from the detention hearing, the very heartfelt and deep  
13 feelings they have for him as being a member of the family, and  
14 leader in the family, for not only himself, his wife, his  
15 children, but also for his siblings and his parents. I just  
16 wanted to bring all that to the court's attention, although,  
17 the numbers are the numbers as to the court's finding, but I  
18 wanted to present all those.

19 THE COURT: Thank you, Ms. Frick. Mr. Trabold.

20 MR. TRABOLD: Your Honor, I won't belabor the point,  
21 you presided over the trial, there is no reason to go into the  
22 facts that was presented by the government. I would just point  
23 out that there are some themes that run throughout this case.  
24 Several of them are illustrative of why the defendant finds  
25 himself in this position here today.

1                   First, that the defendant utilized people who were  
2 at a place in their life where he found themselves easily taken  
3 advantage of or in a precarious position. Those who needed  
4 money, those who were unemployed, those who had just gotten out  
5 of jail, or moved back to Erie. He also utilized young adults  
6 during the course of this conspiracy.

7                   Additionally, there is no question throughout the  
8 government's case, and was buttressed by one of the defense  
9 witnesses, that this defendant was able to avoid apprehension  
10 throughout the course of this conspiracy because he had  
11 advanced police information. Numerous witnesses testified to  
12 that. And I would submit that the testimony of the one defense  
13 witness buttressed the government's claims.

14                   Additionally, throughout the course of this case, it  
15 is clear that this defendant ran this conspiracy with  
16 intimidation and fear. Repeatedly threatened people.  
17 Repeatedly told people if you cooperate against me, there's  
18 going to be bad consequences for you. All of this adds up to a  
19 defendant that engaged in what can only be called the  
20 destruction of lives of other people. Both those people who  
21 conspired against him and those people who were ultimately  
22 consumers of the crack cocaine for no other reason than to  
23 satisfy his own unquenchable thirst for money. That's what  
24 this case boils down to. This defendant wanted money and he  
25 wanted it over and over and over again.

1 Now, we come to today, today is the day when you  
2 have to hold this defendant accountable for what he has done  
3 throughout the course of this conspiracy. We ask and justice  
4 requires that you sentence him to life. Thank you.

5 THE COURT: Before imposing sentence in this case,  
6 I want to take a minute and I want to speak beyond Mr. Cooley,  
7 and I want to speak to specifically some of the young people  
8 that are in this courtroom and have been here during earlier  
9 portions of the trial.

10 Mr. Cooley has forfeited his ability to make choices  
11 about his future. But you haven't. Mr. Cooley has now reached  
12 the last stop on a dead-end road that he has been traveling for  
13 years. Now, think about this. For the rest of his natural  
14 life someone will tell him when to get up; when to go to bed;  
15 what he can wear; who he can talk to; what he can eat; where he  
16 can walk; what he can read; and when he can see his family.  
17 Remember, also, all those people who testified in the case who  
18 found themselves traveling that same road with Mr. Cooley.  
19 Where are they. They're all serving long prison terms.

20 My point is this. Don't turn down Mr. Cooley's road  
21 because once you get on it, there are only two exit ramps; one  
22 is death and the other is prison. Choose a better path. Stay  
23 away from the Cooley's of the world. He was a drug kingpin.  
24 Now he's the king of nothing. Stand for sentencing.

25 Pursuant to the Sentencing Reform Act of 1984, it is

1 the judgment of the court that the defendant, John Cooley, is  
2 hereby committed to the custody of the Bureau of Prisons to be  
3 imprisoned for a term of life.

4 It is further ordered that the defendant shall pay  
5 to the United States a special assessment of \$100, which shall  
6 be paid to the United States District Court Clerk forthwith.

7 The court finds this defendant does not have the  
8 ability to pay a fine and, therefore, will waive a fine in this  
9 case.

10 Mr. Cooley, do you understand that you have the  
11 right to appeal this sentence that's been imposed here this  
12 morning, and if you choose to do so, you must do so within 10  
13 days?

14 THE DEFENDANT: Yes, sir, I do.

15 THE COURT: All right. Anything further from the  
16 defense?

17 MS. FRICK: Nothing, your Honor.

18 THE COURT: Anything further from the United States?

19 MR. TRABOLD: No, your Honor.

20 THE COURT: We're adjourned.

21  
22 (Whereupon, at 11:16 a.m., the sentencing  
23 proceedings were concluded.)  
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I, Ronald J. Bench, certify that the foregoing is a  
correct transcript from the record of proceedings in the  
above-entitled matter.

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Ronald J. Bench

1 witness came forward to detail the acts that Mr. Cooley  
2 undertook to obstruct justice in this case.

3 There was testimony from multiple witnesses that Mr.  
4 Cooley used a weapon or was in the possession of a weapon or  
5 utilized a weapon in the furtherance of this conspiracy. The  
6 only caveat that I want to mention with regard to the weapon is  
7 even if the court were to find that there wasn't enough  
8 evidence, despite the overwhelming evidence in the record that  
9 there was a firearm, the firearm issue, in arriving at the  
10 ultimate guideline calculation, is almost a moot point because  
11 that would simply reduce the overall offense level to a 44,  
12 which is still higher than the guidelines allow anyway. That's  
13 the only point I want to make with regard to the firearm issue.

14 Your Honor, in short, there's simply nothing that  
15 has been presented here today which would call into question  
16 the sentence that you previously imposed. And the sentence  
17 that you previously imposed was without question just and it  
18 remains just today. Thank you.

19 THE COURT: I need to read these new submissions  
20 from Mr. Sandmeyer, we'll take a five-minute recess, come back  
21 and impose sentence.

22 (Recess from 2:02 p.m., until 2:07 p.m.)

23 THE COURT: This is an order. For the record the  
24 defendant has, through counsel, incorporated by reference the  
25 objections previously made to the sentencing calculations at

1 the original sentencing hearing. I have carefully reviewed my  
2 findings made at the original sentencing hearing, which  
3 established a total offense level of 46. With a criminal  
4 history category of II. I believe then and I believe now, that  
5 those findings were fully supported by the record and that the  
6 calculations were correct.

7 Consequently, I make the following calculations.

8 The total offense level applicable is a 46. With a criminal  
9 history category of II. The statutory provision as to custody  
10 is not less than 10 years to life. The guideline provision is  
11 life. The statutory provision as to probation ineligible.  
12 Also ineligible under the guidelines. Statutory provision as  
13 to supervised release less than five years. Guideline  
14 provisions not less five years. The statutory provision as to  
15 a fine not more than \$4 million. Guideline provisions \$25,000  
16 to \$4 million. Restitution is inapplicable under both the  
17 statutory and guideline provisions. And a special assessment  
18 of \$100 applies with respect to both.

19 Of course, in the wake of the recent decision by the  
20 United States Supreme Court in United States v. Booker, 2005 WL  
21 50108, January 12, 2005, I am fully aware that the Sentencing  
22 Guidelines are now advisory only. However, this court is still  
23 obligated to consult the Sentencing Guidelines in determining  
24 the appropriate sentence. In addition to the Sentencing  
25 Guidelines under Booker, I must also consider the other factors

1 set forth in Section 3553(a), which require courts to impose a  
2 sentence "sufficient, but not greater than necessary" to comply  
3 with the purposes set forth in paragraph two. Section  
4 3553(a) (2), states that such purposes are:

5 (A) to reflect the seriousness of the offense, to  
6 promote respect for the law, and to provide for just punishment  
7 for the offense;

8 (B) to afford adequate deterrence to criminal  
9 conduct;

10 (C) to protect the public from further crimes of the  
11 defendant; and

12 (D) to provide the defendant with needed educational  
13 or vocational training, medical care, or other correctional  
14 treatment in the most effective manner.

15 Section 3553(a) further directs sentencing courts to  
16 consider, (1) the nature and circumstances of the offense and  
17 the history and characteristics of the defendant; the kinds of  
18 sentences available; the need to avoid unwanted sentencing  
19 disparities among similarly situated defendants with respect to  
20 sentencing, and with similar records; and the need to provide  
21 restitution to any victims of the offense.

22 In fashioning the sentence here, I have carefully  
23 considered the advisory guideline sentence, as well as the  
24 other factors which I have just articulated.

25 With respect to the nature and circumstances of the

1 offense, the evidence at trial demonstrated that the defendant  
2 was a drug king pin in charge of a large cocaine distribution  
3 ring bringing cocaine into this community. It was in fact one  
4 of the larger conspiracies prosecuted in this area. The  
5 evidence also reflected that the defendant used intimidation  
6 and threats to protect his drug dealing operation.

7 This conduct, as reflected through the testimony and  
8 evidence, reflects a complete lack of respect for the law, his  
9 fellow citizens and even his own family members. I am  
10 convinced that if Mr. Cooley were released from jail, he would  
11 quickly resume his criminal activities. Therefore, protection  
12 of the public is of significant importance. Given the  
13 magnitude of the crime involved, deterrence is also an  
14 important consideration.

15 Would you please rise for sentencing. First of all,  
16 for the record, it's my understanding that Mr. Cooley has  
17 sometime ago paid to the United States the special assessment  
18 of \$100, which was imposed in connection with my original  
19 sentence, is that your understanding, sir?

20 MR. SANDMEYER: That is correct, your Honor.

21 THE COURT: Pursuant to the Sentencing Reform Act of  
22 1984, it is the judgment of the court that the defendant, John  
23 Cooley, is hereby committed to the custody of the Bureau of  
24 Prisons to be imprisoned for a term of life.

25 Mr. Cooley, do you understand that you have the

1 right to appeal this sentence, but if you choose to do so, you  
2 must do so within 10 days; do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right, we're adjourned.

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7 (Whereupon, at 2:10 p.m., the Resentencing  
8 proceedings were concluded.)

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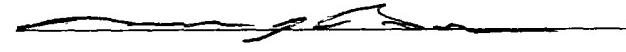
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1                   C E R T I F I C A T E  
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5                   I, Ronald J. Bench, certify that the foregoing is a  
6 correct transcript from the record of proceedings in the  
7 above-entitled matter.

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Ronald J. Bench